

ASSEMBLY, No. 2923

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Requires Site Improvement Advisory Board to offer recommendations to encourage sustainable development.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning site improvement standards and amending
2 P.L.1993, c.32.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 1 of P.L.1993, c.32 (C.40:55D-40.1) is amended to
8 read as follows:

9 1. As used in this act:

10 "Board" means the Site Improvement Advisory Board
11 established by this act;

12 "Commissioner" means the Commissioner of Community
13 Affairs;

14 "Department" means the Department of Community Affairs;
15 **[and]**

16 "Site improvement" means any construction work on, or
17 improvement in connection with, residential development, and shall
18 be limited to, streets, roads, parking facilities, sidewalks, drainage
19 structures, and utilities; and

20 "Sustainable development" means development with the goal of
21 preserving environmental quality, natural resources and livability
22 for present and future generations utilizing initiatives designed to
23 ensure the efficient use of resources.

24 (cf: P.L.1993, c.32, s.1)

25

26 2. Section 3 of P.L.1993, c.32 (C.40:55D-40.3) is amended to
27 read as follows:

28 3. a. There is established in, but not of, the **[department]**
29 Department of Community Affairs a Site Improvement Advisory
30 Board, to devise statewide site improvement standards pursuant to
31 section 4 of **[this act]** P.L.1993, c.32 (C.40:55D-40.4). The board
32 shall consist of the **[commissioner]** Commissioner of Community
33 Affairs and the Commissioner of Environmental Protection or **[his**
34 **designee]** the commissioners' designees, who shall be **[a]** non-
35 voting **[member]** members of the board, the Director of the
36 Division of Housing in the Department of Community Affairs,
37 **[who]** and an appointee of the Commissioner of Environmental
38 Protection who shall be an employee of that department and who
39 shall possess expertise in sustainable development methodologies,
40 both of whom shall be **[a]** voting **[member]** members of the board,
41 and 10 other voting members, to be appointed by the
42 **[commissioner]** Commissioner of Community Affairs. The other
43 members shall include two professional planners, one of whom
44 serves as a planner for a governmental entity or whose professional

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 experience is predominantly in the public sector and who has
2 worked in the public sector for at least the previous five years and
3 the other of whom serves as a planner in private practice and has
4 particular expertise in private residential development and has been
5 involved in private sector planning for at least the previous five
6 years, and one representative each from:

- 7 (1) The New Jersey Society of Professional Engineers;
- 8 (2) The New Jersey Society of Municipal Engineers;
- 9 (3) The New Jersey Association of County Engineers;
- 10 (4) The New Jersey Federation of Planning Officials;
- 11 (5) The Council on Affordable Housing;
- 12 (6) The New Jersey Builders' Association;
- 13 (7) The New Jersey Institute of Technology;
- 14 (8) The New Jersey State League of Municipalities.

15 b. Among the members to be appointed by the commissioner
16 who are first appointed, four shall be appointed for terms of two
17 years each, four shall be appointed for terms of three years each,
18 and two shall be appointed for terms of four years each. Thereafter,
19 each appointee shall serve for a term of four years. Vacancies in
20 the membership shall be filled in the same manner as original
21 appointments are made, for the unexpired term. The commission
22 shall select from among its members a chairman. Members may be
23 removed by the commissioner for cause.

24 c. Board members shall serve without compensation, but may
25 be entitled to reimbursement, from moneys appropriated or
26 otherwise made available for the purposes of this act, for expenses
27 incurred in the performance of their duties.

28 (cf: P.L.1993, c.32, s.3)

29

30 3. Section 4 of P.L.1993, c.32 (C.40:55D-40.4) is amended to
31 read as follows:

32 4. a. The board shall, no later than 180 days following the
33 appointment of its full membership, prepare and submit to the
34 commissioner recommendations for Statewide site improvement
35 standards for residential development. The site improvement
36 standards shall implement the recommendations with respect to
37 streets, off-street parking, water supply, sanitary sewers and storm
38 water management of Article Six (with the exhibits appended
39 thereto) of the January 1987 "Model Subdivision and Site Plan
40 Ordinance" prepared for the department by The Center for Urban
41 Policy Research at Rutgers, The State University, except to the
42 extent that the recommendations set forth in the "Model Subdivision
43 and Site Plan Ordinance" are inconsistent with the requirements of
44 other law; provided, however, that, in the case of inconsistency
45 between the "Model Subdivision and Site Plan Ordinance" and the
46 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),
47 the site improvement standards recommended by the board shall
48 conform to the provisions of the "Model Subdivision and Site Plan

1 Ordinance;" and provided, further, that the board may in developing
2 its recommendations, replace or modify any of the specific
3 standards set forth in the aforesaid model ordinance in light of any
4 recommended site improvement standards promulgated under
5 similarly authoritative auspices of any academic or professional
6 institution or organization.

7 In addition to those recommended standards, the board shall
8 develop, and shall submit with recommendation to the
9 commissioner, a model application form for use throughout the
10 State.

11 At the time the board submits its recommendations for Statewide
12 site improvement standards and a model Statewide application
13 form, the board shall submit to the commissioner, the Governor and
14 the Legislature any recommendations it may deem necessary, in
15 view of the recommended site improvement standards and the
16 model statewide application form, for changes in the "Municipal
17 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

18 b. The commissioner shall review the recommendations
19 submitted by the board and, following his review, shall establish, by
20 regulation adopted pursuant to the "Administrative Procedure Act,"
21 P.L.1968, c.410 (C.52:14B-1 et seq.), a set of Statewide site
22 improvement standards to be followed by municipalities in granting
23 development approval pursuant to P.L.1975, c.291 (C.40:55D-1 et
24 seq.) and a standard application form that shall be used throughout
25 the State. The commissioner shall promulgate the recommendations
26 of the board with regard to Statewide site improvement standards
27 without making a change in any recommended standard unless, in
28 the commissioner's judgment, a standard would: (1) place an unfair
29 economic burden on some municipalities or developers relative to
30 others; or (2) result in a danger to the public health or safety. The
31 commissioner may veto any site improvement standard on the
32 abovementioned grounds; however, any veto of the commissioner
33 may be overridden by a two-thirds vote of the board. The
34 regulations shall be adopted within one year of their submission by
35 the board to the commissioner.

36 c. A municipality or developer may seek a waiver of any site
37 improvement standard adopted by the board in connection with a
38 specific development if, in the judgment of the municipal engineer
39 or the developer, to adhere to the standard would jeopardize the
40 public health and safety. Any application for a waiver shall be
41 submitted in writing to the commissioner, who shall direct the
42 application to a technical subcommittee, as described below, if the
43 commissioner deems the application to be justified according to the
44 standards set forth in this subsection. The technical subcommittee
45 shall consist of those representatives set forth in paragraphs (1), (2)
46 and (6) of subsection a. of section 3 of this act appointed by the
47 commissioner to serve on the Site Improvement Advisory Board.
48 Any decision of the technical subcommittee shall be adopted by

1 resolution explaining the subcommittee's rationale for granting the
2 waiver. The subcommittee shall render its decision within 30 days
3 of the commissioner's determination that the application is justified.
4 Any decision of the technical subcommittee may be appealed to the
5 entire board; however, the board shall render any final decision of
6 an appeal within 10 days of the hearing on the appeal and the
7 decision of the full board shall be final. The waiver process shall
8 not extend the time guidelines which constrain development
9 applications which are set forth in the "Municipal Land Use Law,"
10 P.L.1975, c.291 (C.40:55D-1 et seq.).

11 d. (1) The board shall annually review the regulations adopted
12 pursuant to subsection b. of this section, and shall recommend to
13 the commissioner any changes in those regulations which the board
14 deems necessary based on recommended site improvement
15 standards promulgated under the authoritative auspices of any
16 academic or professional institution or organization.

17 (2) As part of the first annual review following the adoption of
18 P.L. , c. (C.) (pending before the Legislature as this bill) and
19 each annual review thereafter, the board shall recommend to the
20 commissioner changes in the regulations adopted pursuant to
21 subsection b. of this section which the board deems appropriate to
22 advance and encourage sustainable development based on the U.S.
23 Green Building Council Leadership in Energy and Environmental
24 Design (LEED) for Neighborhood Development Rating System and
25 other relevant authoritative standards and methodologies
26 promulgated for the purpose of advancing and encouraging
27 sustainable development through site design.

28 (3) Any changes made in the regulations pursuant to this
29 subsection shall be made according to the same procedure and shall
30 be subject to the same waiver provisions as those set forth in
31 subsections a., b. and c. of this section.

32 (cf: P.L.1993, c.32, s.4)

33

34 4. This act shall take effect immediately.

35

36

37 STATEMENT

38

39 This bill would amend current law in order to ensure that the
40 Statewide residential site improvement standards are reviewed in
41 order to comport with environmental sustainability guidelines.

42 Under current law, the Site Improvement Advisory Board
43 annually reviews the regulations that establish Statewide residential
44 site improvement standards and makes recommendations for
45 changes in those regulations. Great strides have been made during
46 the years since adoption of the current law with regard to standards
47 and methodologies to encourage sustainable development. The bill
48 defines "sustainable development" as development with the goal of

1 preserving environmental quality, natural resources and livability
2 for present and future generations utilizing initiatives designed to
3 ensure the efficient use of resources.

4 To ensure that innovations in sustainable development standards
5 are continuously reflected in regulation, the bill would add to the
6 Site Improvement Advisory Board two members: the Commissioner
7 of Environmental Protection and an employee of the Department of
8 Environmental Protection who possesses expertise in sustainable
9 development methodologies.

10 The bill provides that as part of the first annual review following
11 the adoption of this bill and as part of each annual review thereafter,
12 the Site Improvement Advisory Board would recommend to the
13 Commissioner of Community Affairs changes in the regulations
14 that the board deems appropriate to advance and encourage
15 sustainable development based on the U.S. Green Building Council
16 Leadership in Energy and Environmental Design (LEED) for
17 Neighborhood Development Rating System and other relevant
18 authoritative standards and methodologies promulgated for the
19 purpose of advancing and encouraging sustainable development
20 through site design.